

**Washington County Land Use Authority Meeting
September 8, 2009**

The Washington County Land Use Authority Work Meeting was held on Tuesday, September 8, 2009, at the Washington County Water Conservancy District Office. The meeting was convened at 1:30 p.m. by Chairman Stucki. Commissioners present: Joann Balen, Julie Cropper, Doug Wilson, Kim Ford and Rick Jones. Also present were Planning & Zoning Administrator Deon Goheen, Deputy Attorney Rachelle Ehlert, Building Official Kurt Gardner, Senior Planner John Willie and County Engineer Todd Edwards.

Excused: Debra Christopher, Dave Everett

Audience attendance: Jerome Gourley, Jerry McLall, Miles McLall, Nicki Pace, Kim Ahrenholtz, Robert Hoppal, Rodney E Hoppal, Clara Hoppal, Frank Shearer, Robert D Mitchell, Robert M Anderson, Cimarron Chacon, Lee Snow, Alan Strebeck, Ida Keane, Danny Lohmoelder, James Clark, Mark Ahrenholtz, Deb A Vradenbug

Item # 1. STAFF COMMENTS and STATEMENT. Review staff comments for each item listed below. Staff initiated. Implementation of pending Land Use Ordinance adoption Wind Energy Systems and Facilities to establish minimum requirements and regulations on such systems County initiated.

Due to a lack of data, this item was bypassed.

Item # 2. CHAIR NOMINATIONS. Annual election for a Chairman and Vice-Chairman to be elected from the appointed members of the Commission by a majority of the total membership County initiated (*No Action 08/11/09*)

Due to a lack of full membership, no action could be taken.

Item # 3. CONDITIONAL USE PERMIT EXTENSION. Review progress on exceptions to height limitations and installation of a 2nd 196 foot steel lattice tower at the BLM Blackridge site, within the OSC zone, off I-15 at Exit 36. Verizon Wireless, applicant

The applicant was unable to attend therefore, the planner explained this is an automatic annual review and communication towers are conditionally approved within the OSC-20 zone. As previously reviewed, the applicant submitted a site location plan and photos of a tower located near this site that will be duplicated. The commission addressed exceptions to the height limitations, approving conditionally the extra ninety-six (96) feet needed for the 196' tower. The application met the requirement for collocation and accessory equipment shelters will be reviewed by the Building Department. This application also meets the requirement for a "lattice type" tower and there was no need to create a "fall" zone. This property is located a great distance from private property or developed areas, with the leased area being 75' x 75' and the tower being centrally located. This conditional use permit has been previously approved, but because of budget cuts Verizon has not yet built the tower.

Motion was made by Commissioner Cropper to recommend approval to extend the conditional use permit for one year. Commissioner Ford seconded the motion. Five (5) commissioners voted aye.

Item # 4. CONDITIONAL USE PERMIT Request permission for endurance mountain bike racing, "Frog Hollow Event", on Sheep's Bridge Road, generally located between Virgin and Hwy 59 east of Hurricane, October 31, 2009, a portion within the County unincorporated area. GRO-Promotions, LLC/Cimarron Chacon, applicant

The Planner explained this request was reviewed previously at a different location. The event will be relocated along the Sheep's Bridge Road, which will need to be closed, and is approximately 5 miles north of the previous location. This event is sponsored by GRO-Promotions for endurance mountain bike racing and will host both a 25 hour and 6 hour race on a 13 mile course. The camp opens on Thursday at 4:00 pm and practice will take place on Friday, with actual race being scheduled for Saturday, October 31, 2009. The race will begin at 10 am on Saturday and end at 10 am on Sunday. These types of events are reviewed conditionally at a public meeting to ensure that citizens have the opportunity to comment on the application. The applicant will need a liability insurance policy in place, listing Washington County as a beneficiary. They are expecting 140 - 24 Hour Event Teams and a maximum of 490 people to host. Porta Potties will be based on the numbers in attendance. The applicant will meet the criteria of SITLA and BLM for this activity. The sheriff's office is working with the applicant to provide deputy services for the event and cell phones will allow for communication to emergency response with Hurricane as the provider.

Applicant, Cimarron Chacon reported the people who previously opposed the event will no longer be affected, as they have moved the event and will be using existing mountain bike trails. The applicant changed the location because of issues with the BLM at the previous location. They propose to use 1.1 miles of county road (Sheep's Bridge Rd) and plan to close that road to general use. The total number of participants will be limited to 102 this year. Cimarron discussed the two locations they were analyzing for staging. She also stated the Environmental Assessment has been performed and emergency services will be provided.

Facts/Findings:

- From County Code 10-18-6.1.A: The use complies with all applicable provisions of Washington County ordinances, state and federal law
- From County Code 10-18-6.1.B: The use is not detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity
- Camping is conducive to the area and has been approved by the BLM
- Sanitary issue has been adequately presented and taken care of
- Agreements with law enforcement of Hurricane City to support the event
- Agreements are in place, or will be in place with private landowners and the BLM

- The area has been used mostly for camping, also, it is situated away from major watering holes

- Appears to be compliant with the General Plan of Washington County
- Agrees to provide liability to the county
- Event to take place on existing roads and designated mountain bike trails
- They are in compliance with NEPA (National Environmental Policy Act) and the SCHPO (State Historic Preservation Officers)
- Does not reasonably interfere with lawful use of property or grazing rights
- Teams limited to restrict size of the impact on environment
- For safety BLM may choose to close pit
- Race is limited to one 25-hour period

Motion was made by Commissioner Balen to recommend approval for the conditional use permit for an endurance mountain bike race on Sheep's Bridge RD, based on the facts and findings and provided that the applicant submit a copy of the packet given to the BLM, which will include the permission from the landowners; subject to review in one (1) year. Commissioner Wilson seconded the motion. Five (5) commissioners voted Aye.

Item # 5. CONDITIONAL USE PERMIT Request permission to install a proposed 85' Monopine within the C-2 zone, on 1.36 acre parcel owned by Lee and Patricia Watts, in Dammeron Valley. Atlas Tower, LLC, Tower Owner and WiBlue, Inc./Nathan Foster, applicant. *(Tabled 08/11/09)*

The Planner reported communication towers are conditionally approved within the C-2 zone. The applicant has submitted the site location plan and a drawing of the tower. The 85' Monopine meets the height requirement of the ordinance. There is a requirement for collocation and accessory equipment shelters which will be reviewed. This application does not meet the requirement for a "lattice type" tower, although, the commission has approved several monopoles in other areas of the County. There may be no need for a "fall" zone to be created, as this monopole is located far enough away from the restaurant and residence on the adjacent property. This is private property, with the leased area being 50' x 50' and the tower being centrally located. A slide was presented depicting Monopines in other locations.

Chairman Stucki commented on the idea of having a cell tower made to look like a Monopine. After viewing the slide he stated he'd been down the road in Provo where a Monopine is located and had never noticed the 100' Monopine. Saying the idea works.

Jerome Gourley presented on behalf of the applicant. He stated he was still looking for approval for an 85' Monopine on Watts' property. Atlas Towers had proposed a site near the water tank on the west side of town, near Pinion Hills and was told no by Brooks Pace, from whom they would need an easement. Atlas Towers proposed the 85' Monopine or a Silo with a diameter of approximately twelve (12) to sixteen (16) feet and a height of seventy-five (75) to eighty-five (85) feet. Brooks Pace offered an alternate location which was not acceptable to the applicant, as the location would have too much interference. Mr. Gourley stated Atlas Towers is doing it's very best to propose stealth applications by reducing the height by fifteen (15) feet; attempting to mitigate the visual impact. Mr. Gourley mentioned if this conditional use permit is denied, the applicant will consider an alternate location on BLM near the substation.

Mr. Mitchell, resident in Dammeron Valley and the attorney representing a number of people who live in Dammeron Valley, said they chose to live in Dammeron Valley because of the large parcels and views and explained how a tree standing eighty-five (85) feet tall would stand out considering the tallest trees in the area are approximately twenty (20) feet tall. He asked the commission to evaluate if the site fits the surrounding property and said it does not. BLM land would be better suited for this tower and Mr. Mitchell noted there are a lot of alternative sites. He stated he has sent two emails to Mr. Gourley and has never heard back from him. The site proposed is opposed by him, the Dammeron Valley Landowners Association and many homeowners as represented by the petition he submitted.

Jerry McLall, resident, opposes the tower at this location and read from a prepared statement.

Frank Shearer, Dammeron Valley resident, said he drove all the way to Parowan looking at cell towers and noticed they are generally off the freeway or on the side of hills. He said they do not see the Verizon tower, yet they still get service. The one commercial location in Dammeron Valley is the least expensive for Atlas; they could find a more suitable location on BLM and he asked the commission to please turn this down, at the proposed location. Chairman Stucki asked if Mr. Shearer knew why Brooks Pace refused to allow Atlas Towers to build near the west water tank and he replied it was probably because of radiation concerns, as June Pace has battled cancer.

Denny Lohmoelder, Dammeron Valley resident, opposed this location for the cell tower. He submitted a picture of the proposed site, taken from Pinion Hills looking down. He stated he would be able to see this everyday and so would the people who live in Pinion Hills. He reported a number of plans for future development along SR-18 and wants the tower to be located farther off the highway. He suggested a location east of SR-18.

Mark Reynolds, Dammeron Valley resident, noted he did not get the opportunity to sign the petition and he suspects he is like many people who would have signed the petition had they been afforded the opportunity. He said he liked living in a rural area with views and underground utilities. He stated Dammeron Valley is not a farm with Silos or a forest with 85' trees.

Nicki Pace explained the west water tank was just a few hundred yards away from Brooks and June Pace's home, which is why Brooks objected to that location. She also did not get the opportunity to sign the petition.

Ida Klein, Dammeron Valley resident, submitted documents to support her claim that there is no evidence that cell towers cause cancer. She also noted lots of trees stand out across the country.

Robert Hoppal opposed the cell tower and told the commission they must like hearing a broken record because he had said this before, at a previous meeting.

Alan Strebeck, DVLA member since 2001, objected to anyone speaking on behalf of Dammeron Valley. He stated no one had the authority to do so and noted all the residents have not been polled. Mr. Strebeck stated he was not advocating for the tower, although he would benefit from better cell service, he would not suggest a cell phone tower be put up just for his benefit. He too

is a Verizon customer and does not get good service from his home. He noted everything can be considered an eye soar and gave several examples.

Rodney Hoppal said when residents experienced a lack of phone service they took care of it themselves by switching to Verizon.

Facts/Findings:

From Title 10, Chapter 18-1 of the County Code: *The standards for the issuance of a conditional use permit are established to ensure compatibility with surrounding land uses, conformity with the Washington County general plan, consistency with the characteristics and purposes stated for the zone, and protection, preservation and promotion of the public interest, health, safety, convenience, comfort, prosperity and general welfare*

- It is not compatible with surrounding residential neighborhoods or land use

From Title 10, Chapter 21-1-B of the County Code: *The regulations contained herein are intended to minimize the visual impact of wireless communication facilities while providing for service throughout the county.*

- It does not comply with minimization of visual impact
- It does comply with providing service

From Title 10, Chapter 18-A-1-B-2of the County Code: *The use is not detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. A proposed use shall be considered detrimental:*

(2) If it will unreasonably interfere with the lawful use of surrounding property;

- It does not unreasonably interfere with the lawful use of surrounding property
- There are potential alternative sites available, with community input - elevation, there is already service present in the valley working effectively from a different location, there is availability of power to different sites, applicant indicated that this is his first choice, out of several sites

From Title 10, Chapter 18-6 of the County Code: *Conditional Use Standards Of Review: When the planning commission acts under its power to hear and decide applications for conditional uses, the conditional use shall be approved if reasonable conditions are proposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the applicable standards as set forth below. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.*

- It will not cause unreasonable risks
- It is a utility that cannot go underground
- Applicant has not presented other locations
- From the County code Tile 10, Chapter 18- 6-E-1, The traffic safety conditions are not adversely affected by the use. The existence or need for dedicated turn lanes, pedestrian

access, and capacity of the existing streets shall be reviewed. The commission reviewed this code and said there were no problems relating to it

- Title 10, Chapter 18-6-E-2, Utility capacity is adequate
- Title 10 Chapter 18-6-E-3, Emergency access is adequate
- Title 10, Chapter 18-6-E-4, Parking is adequate
- Title 10, Chapter 18-6-E-5, Adequate to comply with the code, inadequate to mitigate the visual
- Title 10, Chapter 18-6-E-6, Exterior lighting is adequate and does not unduly disturb the surrounding area
- Title 10, Chapter 18-6-E-7, No sign is needed

From Title 21, Chapter 1-A, of the County Code: *The purpose of this chapter is to address planning issues and aesthetic concerns brought on by the demand for wireless communication facilities.*

- It interferes with the aesthetics of the community
- You cannot minimize the visual impact on the community at the proposed location
- From Title 10, Chapter 21- 2-C of the County Code, The tower does not exceed 100'
- The fall zone does fall on adjacent property owners
- The applicant testified he could provide letters of approval from both adjacent property owners and he has not
- It does comply with standards of the zone
- Accessory equipment location meets code
- From the County Code Title 10, Chapter 21-3-C, We are aware it is a Monopine that has been proposed
- From the County Code Title 10, Chapter 18-6-A-1, The maintenance is adequate
- From the County Code Title 10, Chapter 18-6-G, This use does not impact local services

Jerome Gourley said he had the right to a rebuttal and Chairman Stucki agreed. He disputed Commissioner Balen's finding that Atlas had not mitigated the visual affects of the cell tower saying that is why they had proposed a Monopine and Atlas was even willing to make it look like a Silo. He also objected to Mr. Mitchell's claim that he had not had any contact with Atlas Towers and Mr. Gourley read emails the two had exchanged. He noted Atlas Towers wants a tower in Dammeron Valley and assured the commission he would be back if this conditional use permit is denied.

Motion was made by Commissioner Balen to recommend denying the motion for a cell tower based on the previously voted on facts and findings. Commissioner Cropper seconded the motion. Five (5) Commissioners voted Aye.

Commissioner Balen excused

Item # 6. CONDITIONAL USE PERMIT. Review extension on a sales office for the Kolob Ranch development on the west side of the freeway at the Kolob Exit off Interstate 15. Kolob Development, Inc./Robert Anderson, applicant.

The Planner reported this approval lapsed previously due to a lack of representation. This is a use which was approved annually since 1990, and runs with the development until the lots are sold, as it is a project sales office. The manager was invited to attend the meetings previously and in fact Mr. Anderson was in attendance to give an update on the improvement and a time line on lot sales.

Robert Anderson, applicant, president of Kolob Ranches and manager of Juniper Investors LLC apologized for missing the previous meeting, assuring the commission that he would of been there had he known about it. He reported only having fifty-one (51), five (5) acre lots left and insisted the sales office, currently being used by Century 21, was only to be used in conjunction with the sale of lots in Kolob Ranches. The applicant intends to donate a piece of property and the log office building to Mountain Springs Water Company when all the lots are sold.

Facts/Findings:

- The proposed use has been in place for approximately ten years
- There has not been any complaints
- The use is compatible with the surrounding areas
- Conditional use has previously been approved for that area

Commissioner Ford made a motion to recommend approving the conditional use permit for a sales office, for the Kolob Ranch development as supported by the findings, for a period of one (1) year. Commissioner Cropper seconded the motion. Four (4) commissioners voted Aye.

Item # 7. PUBLIC HEARING. Open hearing for a zone change from Agricultural to Forest Residential zone in Pine Valley, Utah Lester Wittwer Investment Co./Shayne Wittwer, applicant.

The Planner informed the commission to open a public hearing as referenced by State Code, stating the land use ordinance had a minimum ten days published notice and 24 hour posting of agenda before other public meetings. ***This item is in conjunction with the item below.***

Chairman Stucki closed the Public Hearing.

Item # 8. ZONE CHANGE. Request permission for a zone change from A-20 (Agricultural 20 acres) to FR-5 (Forest Residential 5 acres), generally located south of 200 East Street in Pine Valley. Lester Wittwer Investment Co./Shayne Wittwer, applicant.

The Planner informed the commission the zone change had been properly advertised and they could now act on it. This zone district is the same as the adjacent FR (Forest Residential zone, whereas, the purpose of this zone is to accommodate a private recreation grounds. The General Plan depicts this area as remaining within the A-20 zones. The commission will need to make facts and findings. The Planner explained that although items 8 & 9 are interrelated and they should be reviewed together, but acted upon separately. ***This item is in conjunction with the item below.***

Shane Wittwer, applicant, states the family has grown but the cabin has not. They are requesting this zone change while keeping the property under the same ownership, because they would like to eventually have five cabins. Lee Snow, who owns the property south of Wittwers, said he does not oppose the zone change but needs to make sure the Wittwers understand that he owns the spring and an easement to access that spring. He stated any development done by the Wittwers cannot affect the spring or his easement.

Planner explained current zoning and told the commissioners to keep the current uses in mind.

County Engineer Todd Edwards said he may have a conflict as he worked for Bush & Gudgell and worked on the original survey of this lot. He also said he was familiar with the area, remembered it to be heavily wooded with lots of rocks. He noted it would be non-conductive to multiple septic systems and suggested fire safety be considered. Mr. Edwards also noted the best locations for the septic system and leach field taking the spring protection zone into consideration.

Facts/Findings:

- The change is not inconsistent with the general plan
- The use is consistent with adjoining property
- There was no opposition to the zone change
- The zone change was advertised and a hearing was held

Commissioner Wilson recommended a zone change from an A-20 to FR-5, South of 200 East in Pine Valley, based on the findings. Commissioner Jones seconded the motion. Four (4) commissioners voted Aye.

Item # 9. CONDITIONAL USE PERMIT. Request permission to establish a private recreation area and facilities on 30.06 acres within the FR-5 (Forest Residential 5 acres) zone, generally located south of Pine Valley Townsite. Lester Wittwer Investment Co./Shayne Wittwer, applicant

The Planner reported this property is on the slopes south of town and the meadows in this area have a high water table, so the Wittwer family is proposing a private recreation area to build a maximum of five (5) cabins on higher ground. They have one (1) existing cabin, so the total number meets the FR-5 density requirements on 30 acres. The conservancy district letter approved density for septic tanks, which should be issued at the time building permits are obtained. The Pine Valley Water Company has indicated the ability to serve this area. Fire hydrants will need to be located within 250' of these dwellings. These types of uses are conditionally approved within the Forest Residential Zone.

Mr. Wittwer reiterated the families desire to eventually build multiple cabins.

Facts/Findings:

- The proposed cabin sites are in conjunction with protecting the spring
- Applicant has received water approval

- The proposed use is consistent with the zone
- The proposed use is consistent with vision Dixie
- It meets FR-5 density requirements on 30 acres
- Fire protection will be met with all weather roads, a cul-de-sac and fire hydrants

Commissioner Ford made a motion to recommend approving a conditional use permit to establish a private recreation area within zone FR-5 with a 25' road and a 35' radius cul-de-sac, for a period of one (1) year. Commissioner Cropper seconded the motion. Four (4) commissioners voted Aye.

Item # 10. STAFF DECISIONS. Review of decisions from the Land Use Authority Staff Meeting held on September 1, 2009. County initiated.

The staff meeting convened at 9:00 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Rachelle Ehlert, Deputy Civil Attorney; Todd Edwards, County Engineer; Darwin Hall, Ash Creek Special Service District Manager; and Tina Esplin, Washington County Water Conservancy District.

Excused: Ron Whitehead, Public Works Director; and Robert Beers, Southwest Utah Public Health Department

CONDITIONAL USE PERMIT EXTENSIONS:

A. Review progress on construction of a single family dwelling within the A-20 zone, North Valley Ranch lot split, generally located 2 miles east of New Harmony. Paul & Christel Affleck, applicants.

These types of uses are reviewed annually and this is the 5th extension for this particular use. The applicant indicated at the meeting over four years ago that he would obtain a building permit by December, but it has not been issued as yet. The applicant will be contacted to see what progress he is making to finalize the permit process. Staff members present felt there may be a problem in extending this use further, since it had been six (6) years. **The staff granted approval of the extension for another month based on work completed for submission, with contact being made to see what the applicant's current plans are. This item will be back on the staff agenda next month.**

CONDITIONAL USE PERMIT:

A. Request permission to build a 2nd dwelling (accessory dwelling) for a family member for seasonal use only in Black Ridge Ranches, Phase II, Lot 101, aka Mountain Springs/Kolob Ranches in the New Harmony valley. Craig Davis, agent

The Planner reviewed the process for 2nd dwelling vs. accessory dwellings allowed in zones of less than 5 acres. Within this particular zone, this should be reviewed as a 2nd dwelling and the Ash Creek Special Sewer District (ACSSD) has informed the applicant they will only approve if it is attached to the main dwelling. The applicant indicated he would dig up the septic to see if the larger unit was in the ground, if so, then that would remain and if it is smaller unit, a 2500 gallon septic tank would be installed. **Staff made**

the determination that the applicant would not need a Conditional Use Permit if the new structure is attached to the main dwelling and the permit is issued as an addition as recommended by ACSSD.

LOT LINE ADJUSTMENT:

A. Consider a lot line adjustment between Lot 21 A and Lot 22 Pine Valley Mountain Farms Subdivision Amended & Extended, within the RE-40.0 zone. Jerry Parkin, applicant and Cornerpoint Professional Land Surveys, Inc./Michael Purdy, agent.

The applicant submitted a survey plat of lots 21 A and 22 of the Pine Valley Mountain Farms Amended plat, and abandonment forms for 7.5 utility easements. Each lot qualifies as they will still meet the requirement of the State Code and the Zoning Ordinance, containing more than 40,000 square feet, with this adjustment. The County Engineer, Todd Edwards said he would take the copy of the plat to review and red line. Recorded deeds or documents should reflect the description of the 7.5' utility easement that is moved with the lot line. The 28' wide portion of the lot runs to the back of the lot to a treed and irrigation area, which will be a good for the owner of lot 22 to have access to the rear of the property. **Staff felt there should be no problem in granting the Lot Line Adjustment, subject to the items requested by staff and filing a survey plat with the Washington County Map Depository within the required 90 days of survey.**

Item # 11. MINUTES. Consider approval of the minutes of the regular planning commission meetings held on August 11, 2009 and August 25, 2009.

Motion was made by Commissioner Ford to accept the minutes from August 11, 2009. Commissioner Wilson seconded the motion. Four (4) commissioners voted Aye.

Motion was made by Commissioner Ford to accept the minutes from August 25, 2009, as corrected with his name added to the attendance. Commissioner Wilson seconded the motion. Four (4) Commissioners voted Aye.

Item # 12. COUNTY COMMISSION ACTION REVIEW

Action taken on Planning Items by the Washington County Commission on September 1, 2009, beginning at 4:00 p.m.: (a) Conditional use extension to expand the Washington County Solid Waste facility off Hwy. 18 in Central...Creamer & Noble Engineering/Steve Layton, agent; and (b) Conditional use permit for endurance mountain bike racing, "Frog Hollow Event ", on Branham Ranch Road, generally located 5 miles southeast of Hurricane off Hwy 59, October 31, 2009, within the County unincorporated areas...GRO-Promotions, LLC/Cimarron Chacon, applicant.

The Planner informed the commission that the conditional use extension to expand the Washington County Solid Waste facility off Hwy. 18 was approved by the County Commission and the conditional use permit for the endurance mountain bike race was sent back to the planning commission for further review of the new location.

Item # 13. COMMISSION & STAFF REPORTS. General reporting on various topics:

The planner reminded the commission of the upcoming field trip to the Wind Farm on September 22, 2009 @ 7:00 am.

There being no further business at 5:00 p.m., Chairman Stucki adjourned the meeting.

Darby Klungervik, Planning Secretary